

AN ACT

RELATING TO HEALTH CARE; ENACTING THE SEXUAL ASSAULT SURVIVORS
EMERGENCY CARE ACT; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Sexual Assault
Survivors Emergency Care Act".

Section 2. DEFINITIONS.--As used in the Sexual Assault Survivors Emergency
Care Act:

A. "department" means the department of health;

B. "emergency care for sexual assault survivors" means medical
examinations, procedures and services provided by a hospital to a sexual assault
survivor following an alleged sexual assault;

C. "emergency contraception" means a drug approved by the federal
food and drug administration that prevents pregnancy after sexual intercourse;

D. "hospital" means a facility providing emergency or urgent health
care;

E. "medically and factually accurate and objective" means verified or
supported by the weight of research conducted in compliance with accepted scientific
methods and standards; published in peer-reviewed journals; and recognized as
accurate and objective by leading professional organizations and agencies with
relevant expertise in the field of obstetrics and gynecology, such as the American
college of obstetricians and gynecologists;

F. "sexual assault" means the crime of criminal sexual penetration; and

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G. "sexual assault survivor" means a female who alleges or is alleged to have been sexually assaulted and who presents as a patient to a hospital.

Section 3. EMERGENCY CARE FOR SEXUAL ASSAULT SURVIVORS--STANDARD OF CARE.--

A. A hospital that provides emergency care for sexual assault survivors shall:

(1) provide each sexual assault survivor with medically and factually accurate and objective written and oral information about emergency contraception;

(2) orally and in writing inform each sexual assault survivor of her option to be provided emergency contraception at the hospital; and

(3) provide emergency contraception at the hospital to each sexual assault survivor who requests it.

B. The provision of emergency contraception pills shall include the initial dose that the sexual assault survivor can take at the hospital as well as the subsequent dose that the sexual assault survivor may self-administer twelve hours following the initial dose.

Section 4. TRAINING.--No later than September 30, 2003:

A. a hospital shall ensure that all personnel who provide care to sexual assault survivors are trained to provide medically and factually accurate and objective information about emergency contraception; and

B. the department shall adopt rules regulating the training to be provided by hospitals pursuant to the Sexual Assault Survivors Emergency Care Act to personnel who provide emergency care for sexual assault survivors.

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Section 5. ENFORCEMENT --ADMINISTRATIVE FINES.--

A. Complaints of failure to provide services required by the Sexual Assault Survivors Emergency Care Act may be filed with the department.

B. The department shall immediately investigate every complaint it receives regarding failure of a hospital to provide services required by the Sexual Assault Survivors Emergency Care Act to determine the action to be taken to satisfy the complaint.

C. The department shall compile all complaints it receives regarding failure to provide services required by the Sexual Assault Survivors Emergency Care Act and shall retain the complaints for at least ten years so that they can be analyzed for patterns of failure to provide services pursuant to that act.

D. If the department determines that a hospital has failed to provide the services required in the Sexual Assault Survivors Emergency Care Act, the department shall:

(1) issue a written warning to the hospital upon receipt of a complaint that the hospital is not providing the services required by the Sexual Assault Survivors Emergency Care Act; and

(2) based on the department's investigation of the first complaint, require the hospital to correct the deficiency leading to the complaint.

E. If after the issuance of a written warning to the hospital pursuant to Subsection D of this section, the department finds that the hospital has failed to provide services required by the Sexual Assault Survivors Emergency Care Act, the department shall, for a second through fifth complaint, impose on the hospital a fine of one thousand dollars (\$1,000):

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(1) per sexual assault survivor who is found by the department to have been denied medically and factually accurate and objective information about emergency contraception or who is not offered or provided emergency contraception; or

(2) per month from the date of the complaint alleging noncompliance until the hospital provides training pursuant to the rules of the department.

F. For the sixth and subsequent complaint against the same hospital if the department finds the hospital has failed to provide services required by the Sexual Assault Survivors Emergency Care Act, the department shall impose an intermediate sanction pursuant to Section 24-1-5.2 NMSA 1978 or suspend or revoke the license of the hospital issued pursuant to the Public Health Act.

Section 6. SEVERABILITY.--If any part or application of the Sexual Assault Survivors Emergency Care Act is held invalid, the remainder of its application to other situations ~~in other persons~~ shall not be affected.